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HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1149th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 July 1992, at 10.30 a.m.

Chairman: Mr. POCAR

CONTENTS

Opening of the session

Statement by the Under-Secretary-General for Human Rights

Adoption of the agenda

Organizational and other matters

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The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the forty-fifth session of the Human Rights Committee.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

2. Mr. BLANÇA (Under-Secretary-General for Human Rights) said that he was both honoured and pleased to be able to address the Committee and welcome its members on the occasion of its forty-fifth session, which was the first opportunity he had had of meeting them as a group since taking up his duties as Director-General of the United Nations Office at Geneva and Under-Secretary-General for Human Rights. As the body responsible for monitoring the International Covenant on Civil and Political Rights, the Committee was one of the pillars of the International Bill of Human Rights, and a basic component of the universal protection machinery created by the founders. He took and would continue to take a constant interest in the Committee's activities and assured its members of his unwavering personal support.

3. The Committee had always been a very dynamic body which had blazed a trail for other organs responsible for the implementation of international human rights treaties. At its recent spring session, the Committee had decided to change its methods of work under article 40 of the Covenant. The adoption of specific comments on each reporting State filled a gap in the system of international human rights instruments. Henceforth, both reporting delegations and governmental and non-governmental observers would be apprised of the opinion of the Committee as a whole on the human rights situation in the country concerned. Even more important in his view was the fact that the suggestions and recommendations made would enable the national authorities responsible for implementing the Covenant to carry out their task more efficiently and thereby to make progress towards the objective they had set themselves when ratifying that fundamental instrument.

4. Turning to developments since the end of the Committee's spring session, he welcomed the fact that the international community's efforts to universalize the Covenant through the world campaign for human rights were clearly beginning to reap their reward. Since the beginning of the previous session, no fewer than nine States had ratified or acceded to the Covenant: in chronological order, Benin, Côte d'Ivoire, Latvia, Seychelles, Guatemala, Cambodia, the United States of America, Paraguay and Switzerland, which brought the number of States parties to the Convention to 111. Furthermore, Benin, Bulgaria, Cyprus and Seychelles had acceded to the first Optional Protocol, and Switzerland and the United States of America had made the declaration under article 41 of the Covenant. Within the last two years, 20 States had become parties to the Covenant, or five times more than during

the previous two years, an achievement which should encourage all concerned to redouble their efforts to make the Covenant and the other international human rights instruments, fully universal.

5. Since the spring session of the Human Rights Committee, the Committee against Torture had held its eighth session and considered the question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Commission on Human Rights had decided by resolution 1992/43 to begin work on the preparation of such a draft by setting up an intersessional working group and requesting the views of various bodies, including the Committee against Torture. The ultimate aim was to establish a universal preventive system of inspection of places of detention, such as already existed at the European level.

6. Preparations for the World Conference on Human Rights were making good progress. The General Assembly had recently decided that the Conference would be held in 1993 in Vienna, Austria, probably from 14 to 25 June; it would be preceded by three days of informal consultations. The third session of the Preparatory Committee would take place from 14 to 18 September 1992 with the main aims of finalizing the provisional agenda for the Conference, adopting the provisions of its rules of procedure left pending from the second session, and considering the studies in preparation for the Conference. Parallel regional meetings were to be held in Bangkok, from 12 to 16 October 1992, Tunis, from 2 to 6 November, and San José, from 30 November to 4 December.

7. The fourth meeting of Chairpersons of the human rights treaty bodies would be held in Geneva from 12 to 16 October 1992. Its agenda would include the usual matters relating to improved coordination of the work of those bodies, and greater cooperation on means to overcome impediments to the smooth operation of procedures, such as failure to meet reporting deadlines and the financial difficulties of some committees. It would also provide the last opportunity for the committees to coordinate their activities before the World Conference. The Commission on Human Rights had, furthermore, recommended that the meeting should devote part of its work to the question of reservations to international instruments.

8. The Centre for Human Rights had continued its efforts in the field of advisory services and technical assistance by organizing several seminars and training courses with the invaluable collaboration of several members of the Human Rights Committee. A training course on international human rights standards had been held in Swaziland in May, and one on the preparation of reports for submission under the various international human rights instruments would shortly be held at Teheran. The Islamic Republic of Iran had recently submitted its report to the Human Rights Committee, and the training course would enable participants to become more familiar with the Committee's procedures.

9. The Commission on Human Rights had, in resolution 1992/80, also invited the human rights treaty bodies to make suggestions and proposals for carrying out the advisory services programme. The Committee and the meeting of

chairpersons might try further to define the role that the human rights treaty bodies could play in the system of providing advisory services and technical assistance to States parties expressing a need for it.

10. The proposal to create a post of director of the Centre for Human Rights, which had been endorsed by the General Assembly, had now come to fruition, the Secretary-General having appointed Mr. Ibrahim Fall, Agrégé de Droit, Professor in the University of Dakar and Dean of the Faculty of Law. Mr. Fall, who would be taking up his duties on 1 August 1992, had been Minister for Higher Education and Minister for Foreign Affairs of his country for five and a half years.

11. He assured members of the Committee once again of the support of the Secretariat as a whole and of his in particular in the conduct of their work.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/78)

12. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

13. The CHAIRMAN drew the attention of Committee members to the draft programme of work, prepared by the Secretariat and himself, which had been circulated in a one-page document without a symbol entitled "Suggested programme of work". It should be noted that the report of Burundi, originally scheduled for consideration at the current session, was not included in the programme as the State party had asked for it to be postponed until the autumn session. The suggested programme was obviously flexible and could be modified as appropriate in the course of the session.

14. Mr. El SHAFEI wondered whether the two meetings set aside for adoption of the Committee's report on the afternoon of 30 July and the morning of 31 July were sufficient, and whether provision should not be made for a third.

15. The CHAIRMAN proposed that the order of work for the two meetings on Thursday, 30 July should be inverted, with the adoption of the report being taken up at the morning meeting and communications at the afternoon meeting, on the understanding that it would always be possible to continue the adoption of the report at the afternoon meeting if necessary.

16. It was so decided.

17. The programme of work, as amended, was adopted.

18. The CHAIRMAN invited the Chairman/Rapporteur of the Working Group on Communications to submit his oral report.

19. Mr. SADI (Chairman/Rapporteur of the Working Group on Communications) said that the Working Group, consisting of Mr. Prado Vallejo, Mr. Mavrommatis, Mr. Ndiaye, Mr. Pocar and himself, had held four productive meetings from 6 to 9 July and had enjoyed good working conditions, having received their

documents in good time. The Working Group had considered 17 draft recommendations, relating to five decisions on admissibility, five decisions on inadmissibility, six decisions concerning views adopted by the Committee and one decision under rule 91 of the rules of procedure. It had not been possible to consider the drafts of two further sets of views, since the Working Group had not had the text in all languages. It would, accordingly, be necessary to hold another short meeting.

20. The CHAIRMAN said that efforts would be made to find a time when the Working Group could meet.

21. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group, composed of Mr. Aguilar Urbina, Mr. Ando, Mr. Pocar and himself, had held four fruitful meetings during which it had drawn up the lists of issues to be taken up in connection with the consideration of the periodic reports of Belarus and Mongolia. It had also considered draft general comments on articles 18 and 25 under article 40 (4) of the Covenant. The draft general comment on article 18 was now complete and would be submitted to the Committee at the current session. Unfortunately, the Working Group had not had time to complete its consideration of the draft general comment on article 25; that task would fall to the next Working Group, which would meet before the forty-sixth session and would have before it the comments of the current Working Group based on the first reading of the draft.

22. The Working Group had also considered a request from Austria for the Committee to provide an opinion or comments on the reservations which Austria had entered to the Covenant. The Working Group had gone into the issue in detail; it would inform the Committee of its views about the Committee's competence in the matter and would submit a draft text for possible use by the Committee if it decided to draw up comments for the State party concerned.

23. Mrs. HIGGINS asked, without prejudice to any decision which the full Committee might take, whether the Committee's workload would allow it to consider the draft recommendation to be submitted by the Working Group.

24. The CHAIRMAN said that the matter could be considered on 24 July, at one of the meetings devoted to general comments, the World Conference on Human Rights and organizational and other matters.

25. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that the list of issues to be taken up in connection with the consideration of the report of Belarus called for some explanations. The members of the Working Group, aware that many important events had taken place in Belarus since the submission of the report (CCPR/C/52/Add.8), and in the light of the experience gained from other countries in a similar situation, had endeavoured to draw up the list in such a way as to encourage the delegation to provide information on the new situation in the country. A great many questions had occurred to them, and they had deliberately limited the number in order to promote a fruitful dialogue. He asked the members of the Committee not to suggest any new questions unless they were of paramount importance.

26. The CHAIRMAN invited the members of the Committee to comment on the list of issues section by section. Section I read:

"I. Constitutional and legal framework within which the Covenant is implemented; right to self-determination; non-discrimination and equality of the sexes; and rights of persons belonging to minorities (articles 1, 2, 3 and 27)

(a) Please clarify the legal and practical consequences of the dissolution of the Soviet Union and the establishment of the Commonwealth of Independent States on the implementation of the rights set forth in the Covenant and their enjoyment by individuals. In particular, what is the status of former Soviet Union legislation in the field of human rights and have there been any changes as to the remedies available to persons claiming a violation of their rights under the Covenant as well as in the status of the Covenant in domestic law?

(b) What has been the impact on the actual implementation of the Covenant of the adoption of the Act on the Status of Judges of 4 August 1989, the Contempt of Court Act of 2 November 1989, and the Foundations of Legislation on the Judicial System of 17 November 1989 (paras. 50 to 58 of the report)?

(c) Does Belarus intend to sign and ratify the first Optional Protocol to the Covenant?

(d) Please elaborate on the new systems of power being established both nationally and locally, in provinces, cities and rural areas (para. 84 of the report).

(e) What measures have been taken or contemplated to ensure consistency between any new constitutional provisions or other legal instruments and the Covenant?

(f) Please comment on what improvements, if any, have occurred in the situation of minorities since the consideration of the second periodic report. Please provide statistical data on minorities described in the Covenant.

(g) Please elaborate on the activities undertaken to enhance the role and status of women during the reporting period, particularly by the women's councils mentioned in paragraph 29 of the report."

27. Mr. SADI suggested that the words "in Belarus" should be added at the end of the first sentence of paragraph (a) which, in his opinion, was drafted too broadly. It seemed to him that the Committee wanted to know the legal and practical consequences of the dissolution of the Soviet Union for individuals in Belarus, rather than in the other States of the former Soviet Union.

28. Mr. MULLERSON fully endorsed the proposed amendment. He noted that paragraph (c), which asked whether Belarus intended to ratify the first Optional Protocol to the Covenant, raised the complex issue of succession of States in respect of treaties. Most of the States to emerge from the dissolution of the Soviet Union probably considered themselves to be its successors, and therefore saw no need to ratify an instrument to which the Soviet Union had been a party. He suggested that the Committee should ask the Belarus delegation whether Belarus considered itself bound by the Soviet Union's accession to the Optional Protocol.

29. The CHAIRMAN pointed out that the Byelorussian SSR had been a party to the Covenant as a State distinct from the USSR and that, consequently, the Committee was entitled to ask it whether, as a signatory to the Covenant, it intended to ratify the Optional Protocol.

30. Mr. MULLERSON said he was aware that the Byelorussian SSR and the Ukrainian SSR had acceded to the Covenant independently from the USSR. Nevertheless, that did not mean that the two countries were not bound by obligations under the treaties ratified by the USSR.

31. Mr. HERNDL agreed with the proposal to change the wording of paragraph (c), but considered that Mr. Müllerson's suggestion was not neutral or objective enough; indeed, it plunged the Committee straight into the debate on succession of States in respect of treaties, which was just what it wanted to avoid. It would be preferable to use wording which would allow the delegation to explain itself, such as: "What is the position of Belarus regarding the first Optional Protocol to the Covenant?".

32. In reply to a question by Mr. PRADO VALLEJO, Mr. AGUILAR URBINA explained that, in the Spanish version of the list of issues, the paragraphs were in the wrong order, with paragraph (d) being the equivalent of paragraph (b). The second paragraph (a) was really paragraph (b), and the present paragraph (d) should be replaced by the text of the present paragraph (b).

33. Mr. WENNERGREN stressed the problems arising from the fact that the report before the Committee (CCPR/C/52/Add.8) dated from 1990, because the list of issues had mostly been derived from that report. The Committee should try to reword certain questions in order to obtain information about any new legislation adopted since the dissolution of the USSR. Accordingly, the Committee should expand the second sentence of paragraph (a), not only inquiring about the status of the legislation of the former Soviet Union, but also asking what new laws had been promulgated in Belarus to replace Soviet legislation.

34. The CHAIRMAN noted that, as was the custom, the list of issues had been sent to the Permanent Mission of Belarus, whose delegation was to appear before the Committee at the 1151st meeting. The Committee could make a few changes, but should refrain from completely rewriting the list. He wondered whether Mr. Wennergren's suggestion was not already covered by the second sentence, which asked whether there had been any "changes". In any case, the issue was dealt with later on, under the various articles of the Covenant.

35. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) fully endorsed Mr. Sadi's suggestion that the words "in Belarus" should be added at the end of the first sentence of paragraph (a). With respect to Mr. Wennergren's suggestion, he pointed out that the Working Group had been fully aware of the differences between the current situation and the situation obtaining at the time the periodic report had been prepared and had intended the first question to encourage the delegation to give a general overview of the new situation, while indicating clearly in the second sentence that the Committee wished to be apprised of all the new developments. In any case, everyone expected the delegation to describe in its opening statement the legislative developments which had occurred since the report had been drawn up. There was no need to labour the point.

36. Concerning paragraph (c), the wisest course would be to adopt as neutral a formulation as possible, so as not to be drawn into the debate about succession of States in respect of treaties, however fascinating that debate might be. It would be sensible to allow the State party to explain its position; accordingly, the wording suggested by Mr. Herndl was the best.

37. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to add the words "in Belarus" at the end of the first sentence of paragraph (a) and to replace the question in paragraph (c) by the following question: "What is the position of Belarus regarding the first Optional Protocol to the Covenant?", as Mr. Herndl had suggested.

38. It was so decided.

39. Mr. WENNERGREN said he did not see why the Committee should not ask a question directly, rather than waiting for the delegation to take the initiative in listing developments. Without going into details, the Committee could ask the delegation what was the current situation regarding human rights legislation. Phrased in that way, the question covered the situation concerning the legislation of the former USSR as well as the adoption of any new laws.

40. The proposal was adopted.

41. Mr. SADI said that section I of the list of issues also referred to the right to self-determination and he wondered whether, in the case of a country separating itself from the union to which it had formerly belonged, it would not be appropriate to ask the delegation how the right to self-determination had been exercised. If the Committee did not think it necessary to include such a question in the list of issues, he would put it to the delegation personally.

42. Mrs. HIGGINS pointed out that the question whether self-determination could be exercised in the context of the withdrawal of a country from a union was a highly controversial legal issue. Her own view was that groups living in the territory of an existing Member of the United Nations could not invoke the right to self-determination in order to secede. The right to self-determination covered the right of all individuals to exercise all the

democratic rights and the right to participate in public life. It would be very dangerous - and moreover legally incorrect - for the Committee to give the impression that it considered that the right to self-determination could be interpreted as giving a particular group of persons living in the territory of a Member of the United Nations the right to secede.

43. Section I was adopted, subject to the oral amendments to paragraphs (a) and (c).

44. The CHAIRMAN invited the members of the Committee to comment on section II, which read:

"II. Right to life, treatment of prisoners and other detainees and liberty and security of the person (articles 6, 7, 8, 9 and 10)

(a) What is the current status of planned criminal legislation designed to significantly reduce the number of crimes for which capital punishment can be ordered? (Para. 31 of the report) Please also indicate how often and for what crimes the death penalty has been imposed and carried out since the consideration of the second periodic report of Belarus.

(b) Has any consideration been given in Belarus to the abolition of the death penalty and accession to the second Optional Protocol to the Covenant?

(c) Please provide information on safeguards against torture and other impermissible methods of investigation (para. 37 of the report).

(d) Please elaborate on the changes made to the Code of Criminal Procedure and the Corrective Labour Code relating to the implementation of article 10 of the Covenant (paras. 44 and 45 of the report).

(e) Please describe the conditions of detention in colony-settlements and corrective-labour colonies. Are the United Nations Standard Minimum Rules for the Treatment of Prisoners complied with in these colonies?

(f) Please provide information on the conditions of persons held in punishment or disciplinary isolation units or in solitary confinement (para. 45 of the report).

(g) Are there penal sanctions which consist only of forced labour and, if so, how is this reconciled with article 8 of the Covenant?

(h) Please provide information on measures taken to restructure the work of the militia and other police organs, with a view to better protecting the interests of the State and rights of the citizens (paras. 40 and 41 of the report).

(i) Please elaborate on the experience to date with the actual implementation of Decrees adopted in July 1987 and January 1988 regulating conditions and procedures for providing psychiatric care (paras. 42 and 43 of the report)."

45. Section II was adopted without change.

46. The CHAIRMAN invited the Committee to comment on section III, which read:

"III. Right to a fair trial (article 14)

(a) Please provide additional information on the right to defence introduced by article 7 of the Foundations of Legislation on the Judicial System of 17 November 1989. In particular, how soon after arrest can a person contact a lawyer and inform his family? (para. 56 of the report)

(b) What measures have been taken to ensure that trials are genuinely public, allowing access to the interested public, including representatives of the local and foreign press?

(c) Please provide further information on the free legal aid system in Belarus."

47. Section III was adopted without change.

48. The CHAIRMAN invited the members of the Committee to consider section IV of the list of issues, which read:

"IV. Freedom of movement and expulsion of aliens, right to be recognized as a person before the law, freedom of religion and expression (articles 12, 13, 16, 17, 18, 19 and 20)

(a) Please elaborate on the restrictions that have been lifted in respect of the right freely to leave and return to the country (para. 48 of the report). What is the current status of the draft Act on entry and departure?

(b) Please provide information on the actual implementation of the Decree of 25 August 1987 relating to measures taken against foreign citizens for preventing infection with the AIDS virus, particularly as to required medical examinations and appropriate coercive measures (para. 49 of the report).

(c) Please provide information concerning the law and practice relating to permissible interference with the right to privacy.

(d) Please elaborate on limitations, if any, on freedom of conscience and religion (para. 60 of the report).

(e) With regard to paragraphs 62 to 65 of the report, please elaborate on the situation in Belarus of the right to seek, receive and impart information and ideas of all kinds.

(f) How is the nationality of Belarus acquired by former citizens of the USSR and their descendants? Is there a danger that the number of stateless persons would increase? What is the understanding of the Government of Belarus of article 16 of the Covenant and why is there no reference to it in the report?

(g) Is conscientious objection to armed service to erated and regulated by law?"

49. Mrs. HIGGINS proposed that the words "and content" should be added to the second sentence of paragraph (a).

50. Mr. MULLERSON said he fully supported Mrs. Higgins' proposal.

51. The proposed amendment was adopted.

52. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) thought that the first sentence of paragraph (a) should be deleted, given the changed situation in the country since the report had been prepared. He noted that the paragraph's second question, as expanded by Mrs. Higgins, should allow the Committee to obtain information on the specific provisions of the draft Act.

53. The proposed amendment was adopted.

54. Mr. PRADO VALLEJO said that, in his view, it was important to know what legal principles and norms governed the acquisition of the nationality of Belarus. The first question in paragraph (f) should therefore be reworded.

55. Mr. WENNERGREN thought that paragraph (f) should refer not to the nationality of Belarus but rather to citizenship of Belarus. He pointed out that many problems had arisen in former Republics of the Soviet Union where, at the time of independence, the members of certain ethnic groups, though nationals of the new State, had not become full citizens.

56. Mr. MULLERSON agreed with Mr. Wennergren. Subject to that amendment, he thought that the first question in paragraph (f) fulfilled Mr. Prado Vallejo's wishes and did not need to be made more specific.

57. Miss CHANET said she also thought that the term "nationality" in paragraph (f) should be replaced by "citizenship". Having said that, she wondered whether the third question of the paragraph, which related to article 16 of the Covenant, was appropriate. That article concerned the right to recognition as a person before the law and was not really related to nationality. In her view, if the Committee wanted to raise an issue under article 16 it should not do so in paragraph (f).

58. Mr. PRADO VALLEJO drew attention to a number of difficulties in the Spanish version of the list. For example paragraph (b) should refer to nationals rather than citizens. In Latin America, the two concepts covered two very different states of affairs. He explained that, in that part of the world, citizenship was acquired automatically at the age of civil majority.

59. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that, in his view, only paragraph (f) raised a problem. Though he would not object to replacing the term "nationality" by "citizenship", he would prefer to retain the former. By referring to "citizenship", the Committee might give the impression that it was embracing the views of certain ultranationalists in Eastern Europe who currently placed a very special interpretation on a term that was perfectly clear in international law.

60. Regarding the request in paragraph (f) for further information in connection with article 16 of the Covenant, he recalled that some reporting countries had sometimes dealt with the question of descendants' acquisition of nationality within the framework of article 16. The question of nationality was of course of great importance in the context of human rights. However, the Committee could not approach the matter by invoking any article of the Covenant because the Covenant did not contain any provisions regarding nationality. The reference to article 16 could be one way of doing so, among others, but if the members of the Committee considered that the link thus established between the article and the question of the right to nationality was too artificial, the third sentence of paragraph (f) could be deleted or could be made into a new paragraph.

61. Mr. WENNERGREN said he would prefer the Committee not to refer to the right of nationality, but to adhere to the terms of the Covenant, which made no specific provision for that right.

62. Miss CHANET said that, having listened to Mr. Dimitrijevic, she was somewhat anxious as to the conclusions that might be drawn from a reading of paragraph (f): the Committee could be suspected of considering that the right to recognition as a person before the law, within the meaning of article 16 of the Covenant, included the right of nationality, which was not guaranteed by the Covenant. If members of the Committee wished to raise any question concerning article 16, that should not be done under paragraph (f).

63. Mr. MULLERSON submitted that, in so far as the rights of citizens were dealt with in the Covenant (art. 25), it might be wise to adhere to the terms of the latter, and preferable to speak of citizenship rather than nationality under paragraph (f). Moreover, in Belarus as in all the other former republics of the USSR, "citizenship" and "nationality" signified two very different things. In the present instance, and to avoid any misunderstanding, the former term should be employed.

64. Mr. AGUILAR URBINA endorsed Mr. Prado Vallejo's suggestion concerning the amendment of the Spanish text of the list of issues, adding that he would welcome clarification from Mrs. Higgins concerning the meaning of the terms "nationality" and "citizenship", and their use in legal language in the English-speaking countries. He himself understood that the right of nationality implied recognition of a person's status as a national of a given State, whereas citizenship involved political rights as set out under article 25 of the Covenant.

65. Mrs. HIGGINS said that the difference was not a matter of language. After listening to the previous speakers, she realized that in the Commonwealth countries, the two terms signified virtually the opposite of what they did in the countries of the former USSR. To avoid any confusion and take account of different realities, she would propose that the first question under paragraph (f) should be formulated to read: "How is the citizenship and nationality of Belarus acquired by former citizens of the USSR and their descendants?" She added that if reference was made only to citizenship, the second question would be pointless, because not being a citizen of a State did not necessarily render a person stateless. Further, it would be advisable to delete the final question, which reflected as it were an abstract interpretation of article 16 of the Covenant. Lastly, she agreed with Mr. Prado Vallejo concerning paragraph (b), and proposed that in the English text the words "foreign citizens" should be replaced by "foreign nationals", the other language versions being, if necessary, brought into line.

66. The proposed amendments were adopted.

67. Section IV, as orally amended, was adopted.

68. The CHAIRMAN invited the members of the Committee to consider section V of the list of issues, which read:

"V. Freedom of assembly and association and right to participate in the conduct of public affairs (articles 21, 22 and 25)

(a) What have been the results of the discussion on 'improving the legal regulation of conditions and procedures for holding peaceful assemblies, processions and demonstrations' (para. 69 of the report)?

(b) Please provide information on the laws and regulations governing the right to strike. What is the practice in this regard?

(c) Please provide information on the laws and regulations governing the founding, registration and financing of political parties. Are there any parties active and when are multi-party elections at the State and local level to be expected?"

69. Mr. SADI suggested that in paragraph (c), the Committee might ask when the next general elections would be held in Belarus.

70. Mr. WENNERGREN submitted that the question posed in paragraph (a) referred to a state of affairs that had come to an end with the break-up of the USSR. It was the situation since independence and the present state of discussions on issues under articles 21, 22 and 25 that interested the Committee.

71. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that, although the Working Group had frequently been tempted to draft questions unrelated to the report of Belarus, which was in many

respects obsolete, it had to the extent possible refrained from doing so. It was nevertheless clear that paragraph (a) had been drafted by the Working Group with the aim of determining whether discussions were currently under way.

72. He was not sure that he had fully understood Mr. Sadi's remarks, since paragraph (c), to his mind, addressed the issue of future elections.

73. Mr. WENNERGREN suggested that "what have been the results of the discussion", in paragraph (a) might be replaced by "what has become of the results of the discussion", and proposed that a further question should be added to read "and what further steps have been taken since then".

74. The CHAIRMAN said he believed the Committee as a whole endorsed the addition proposed by Mr. Wennergren.

75. The proposed amendment was adopted.

76. Section V, as orally amended, was adopted.

77. The list of issues to be taken up in connection with the consideration of the third periodic report of Belarus, as orally amended, was adopted.

78. The CHAIRMAN invited the Committee to consider and adopt the list of issues to be taken up in connection with the consideration of the third periodic report of Mongolia (CCPR/C/64/Add.2).

79. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) remarked that during the drafting of the list, the State party had informed the Working Group that in view of new events, both national and international, it was willing to submit a revised report. However, time constraints had obliged the Working Group to base itself on the original report in drawing up the list. At all events, the Mongolian delegation would undoubtedly make a very detailed statement on the current situation in the country, which the Committee would be able to take into account.

80. The CHAIRMAN invited the Committee to consider and adopt section I of the list, which read:

"I. Constitutional and legal framework within which the Covenant is implemented; non-discrimination and equality of the sexes (articles 2, 3 and 26)

(a) Has any change in the status of the Covenant within the Mongolian legal system been brought about by the new Constitution? To what extent have the provisions of the Covenant been taken into account in the process of adopting the Constitution and amending legislation (para. 3 of the report)?

(b) Please clarify the relationship between the Great People's Khural, the Little Khural and the President of the Mongolian People's Republic and their respective role in so far as the implementation of the Covenant is concerned (para. 5 of the report).

(c) Has the role of the Procurator's Office changed under the new Constitution and laws?

(d) Please provide information on cases, if any, during the period under review where the provisions of the Covenant were directly invoked before the courts or referred to in court decisions.

(e) What measures have been taken to compensate victims of past violations of human rights? Please comment on the activities of the Commission on the Rehabilitation of Persons Subjected to Unlawful Repression and elaborate on the nature of compensation being offered to citizens who had suffered from damage caused by a wrongful conviction, wrongful prosecution or wrongful detention in custody (paras. 22 and 23 of the report).

(f) Please clarify in which respects the rights of aliens who do not benefit from the special agreements mentioned in paragraph 9 of the report are restricted as compared with those of citizens."

81. Mrs. HIGGINS remarked, in connection with paragraph (b), that the Little Khural had been of brief duration, and appeared no longer to exist.

82. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that that was one of the developments which had occurred after the Working Group had already drawn up the list on the basis of the original report. A new Constitution had indeed been adopted, and the Working Group had taken steps to determine what changes had taken place in the functioning of the country's institutions. It seemed that the Little Khural was still in existence, but under another name. To be on the safe side, the Committee might refer, in paragraph (b), to the relationship between the supreme legislative and executive organs under the Constitution and their respective roles in so far as the implementation of the Covenant was concerned.

83. Mr. ANDO remarked that the Working Group had only received the new Constitution on the day it had begun its work, and had thus had to base itself on information in the original report. The Mongolian delegation would doubtless be able to correct any inaccuracies when presenting the Government's report to the Committee.

84. Mr. EL SHAFEI argued that it would be clearer and more exact to ask, in the second part of paragraph (a), to what extent the provisions of the Covenant had been taken into account "in the formulation of the new Constitution", rather than "in the process of adopting the Constitution", an expression which could give rise to confusion.

85. The amendment by Mr. El Shafei to paragraph (a) and that by Mr. Dimitrijevic to paragraph (b) were adopted.

86. Section I, as orally amended, was adopted.

87. The CHAIRMAN invited the members of the Committee to consider and adopt section II of the list, which read:

"II. Right to life, treatment of prisoners and other detainees and liberty and security of the person (articles 6, 7, 9 and 10)

(a) What are the rules and regulations governing the use of firearms by the police and security forces? Have there been any violations of these rules and regulations and, if so, what measures have been taken to prevent their recurrence?

(b) Please clarify the statement in the report that the death penalty has been established as 'an alternative to imprisonment for varying terms, not as the primary but as a secondary option' (para. 14 of the report).

(c) How often and for what crimes has the death penalty been imposed and carried out since the consideration of Mongolia's second periodic report?

(d) Has any consideration been given to the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant?

(e) With reference to paragraphs 42 and 43 of the report, please provide information on action taken to make the Corrective Labour Code more humane and to bring the penitentiary system in line with the commitments entered into by Mongolia under international conventions and agreements on human rights.

(f) Please clarify the legal value of testimony extracted through violence or insulting treatment (para. 18 of the report).

(g) Please elaborate on the plans being made to introduce new legal provisions which will strengthen and guarantee the right to liberty and security of the person (para. 21 of the report)."

88. Section II was adopted.

89. The CHAIRMAN invited the members of the Committee to consider and adopt section III of the list, which read:

"Right to a fair trial (art. 14)

(a) In view of the statement in paragraph 50 of the report that Mongolian legislation should to a greater degree reflect article 14 of the Covenant, please provide information on any shortcomings in Mongolian legislation in that regard as well as on any steps being taken to overcome them.

(b) How is the independence and impartiality of the judiciary guaranteed?

(c) Please provide information on the defence's rights and the availability of free legal assistance to criminal defendants."

90. Section III was adopted.

91. The CHAIRMAN invited the members of the Committee to consider and adopt section IV of the list, which read:

"IV. Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, right to participate in the conduct of public affairs, and rights of persons belonging to minorities (articles 12, 13, 17, 18, 19, 20, 21, 22, 25 and 27)

(a) Please clarify the current standing of the bill governing departure from the country by Mongolian citizens and entry into the country by foreigners (para. 45 of the report).

(b) Please clarify the compatibility with article 12 of the Covenant of the grounds for refusing an exit visa mentioned in paragraph 46 of the report. What are the possibilities of appeal against such decisions?

(c) Please explain the procedures leading to an expulsion order and the remedies available to the individuals concerned.

(d) With reference to paragraph 57 of the report, please provide information on the constitutional provisions relating to the right to privacy and on the process of review of the Civil Code with the intention to strengthen that right.

(e) Please provide information on the status of the bill on the right to freedom of religion currently in preparation.

(f) Please provide information on any restrictions to the freedom of assembly and association of religious communities, the use of places of worship, the publication of religious material or to the liberty of parents to ensure the religious education of their children.

(g) What is the status of the preparation of the new press law?

(h) Please elaborate on the criteria used in prohibiting public meetings and on the recourse available against such decisions (see para. 64 of the report).

(i) Please provide information on the procedure for registering new political parties. Please also provide information on new legislation allowing trade union pluralism and its effects.

(j) What factors and difficulties, if any, exist with respect to the implementation and enjoyment of the rights under article 27 of the Covenant? What is the size of the different minority groups in Mongolia and how are the rights of such groups under article 27 of the Covenant guaranteed?"

92. Mr. MULLERSON thought that it would be preferable, in paragraph (a), to replace the phrase "the bill governing departure from the country by Mongolian citizens" by the phrase "the bill governing the right of Mongolian citizens to leave the country".

93. Mrs. HIGGINS noted that the Committee was again confronted with the problem of the distinction between citizens and aliens, as though the rights of the one were different from those of the other. She would like the Committee to keep to the wording of article 12 of the Covenant, which stated that "everyone" was free to leave any country, including his own.

94. Mr. ANDO, supported by Mr. AGUILAR URBINA, thought it would be sufficient to delete the reference to "citizens" and simply refer to Mongolians.

95. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) reminded the members of the Committee of the pernicious effects of the nationalistic fervour that had recently manifested itself in Eastern Europe and in many countries once part of the former Soviet Union. The Committee should be careful not to refer only to Mongolians, thus neglecting the rights of persons of other ethnic groups living in Mongolia. In the case in point, it would certainly be preferable to abide by the terms of article 12 of the Covenant as closely as possible, while limiting the question at issue to that of the exercise of the right to leave and enter Mongolia. It looked as though the Committee would be called upon to discuss that type of question more and more frequently in future, and it would be advisable to envisage preparing another general comment on the way in which the concepts of foreigner and nationality should be understood within the meaning of the Covenant, thus enabling the Committee to contribute to clarifying a number of important points of international law.

96. Mr. HERNDL emphasized, in connection with paragraph (a), that in his understanding the relevant paragraph of the report was not 45 but 48. Also, in his view, it would be better to avoid any reference to a bill whose scope was not very clear and instead request the Mongolian delegation to provide the necessary information regarding the legislation actually in force. He also thought it would be preferable to keep to the wording of article 12 of the Covenant.

97. Mrs. HIGGINS proposed that the Committee should adopt a formulation similar to that approved for Belarus. Paragraph (a) could read: "What is the current status and content of the legislation on the right to enter and leave?"

98. Mrs. Higgins' proposal was adopted.

99. Part IV, as orally amended, was adopted.

100. The list of issues to be taken up in connection with the consideration of the third periodic report of Mongolia (CCPR/C/64/Add.2), as orally amended, was adopted.

101. Mr. WENNERGREN asked whether a member of the Committee had been appointed to draft the Commitee's final comments on the consideration of the initial report of the Republic of Korea.

102. The CHAIRMAN said that Mr. Dimitrijevic, Mr. Ando and Mr. Aguilar Urbina had already been appointed to draft the final comments for Belarus, Mongolia and Peru, respectively. He proposed that Mr. Herndl should be made responsible for drafting the Committee's final comments on the report of the Republic of Korea.

103. It was so decided.

The meeting rose at 12.55 p.m.